

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

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**P & L Farms, an Iowa Partnership,**  
Appellant,

**v.**

**Polk County Board of Review,**  
Appellee.

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**ORDER**

**Docket Nos. 13-77-0357 through  
13-77-0362**

On May 7, 2014, the above-captioned appeals came on for hearing before the Iowa Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney G. Wylie Pillers, III of Pillers & Richmond, Clinton, Iowa, represented Appellant P & L Farms by telephone. Assistant County Attorney David Hibbard represented the Board of Review in person. The Appeal Board now, having examined the entire record, heard the testimony, and being fully advised, finds:

***Findings of Fact***

P & L Farms, owner of six parcels of agricultural property located in Four Mile Township in southeast Polk County, Iowa, appeals from the Polk County Board of Review decisions reassessing its property. The appeals for these parcels were consolidated for hearing.

P & L protested to the Board of Review on the grounds that the property was exempt from taxes under Iowa Code section 441.37(1)(a)(3). Its petitions sought to have the property be exempt as wildlife preserve. The petitions noted the parcels are used solely as wildlife/conservation preserve and have river and streams/wetlands on them. The Board of Review denied the petitions because the exemption applications were untimely filed.

P & L then filed its appeals with this Board. The appeals reiterated the statements P & L made on its petitions to the Board of Review.

The following chart provides information on each parcel.

Docket	Parcel	Acres	Use Adjustment	Assessed Value
13-77-0357	220/00402-000-000	40.804	50%	\$ 32,960
13-77-0358	220/00410-001-000	11.530	50%	\$ 8,370
13-77-0359	220/00406-000-000	40.000	50%	\$ 36,020
13-77-0360	220/00408-000-000	80.000	50%	\$ 71,920
13-77-0361	220/00407-000-000	40.000	50%	\$ 35,120
13-77-0362	220/00410-000-000	56.700	50%	\$ 41,710

According to the record, the parcels are all subject to a flowage easement for overflow of the Des Moines River or constitute wetlands. (Exhibit I). P & L purchased the property in 2007 as a conservation and wildlife preserve. It asserts the land has been continuously used as a wildlife preserve and has not been farmed or used for any profitmaking purpose. From 2008 through 2010, P & L timely filed applications for the National Conservation and Wildlife Area Credit and the properties were exempt from taxation. However, it failed to file exemption applications in 2011 and 2012, which it did not discover until the subsequent tax bills were received. In 2013, P & L then filed its exemption applications late, after the February 1 statutory deadline set forth in Iowa Code section 427.1(22). (Exhibit I). The applications were not mailed until February 19 and received by the Polk County Soil and Water Conservation Commission on February 21, well after the deadline. (Exhibit I).

Julie Van Deets, Exemption Coordinator in the Assessor's Office, testified she is responsible for processing exemptions and handled P & L's applications. She reported the Commission denied the applications based on the late filings. The Commission then forwarded the denied applications to the Assessor's Office. Van Deets testified the Assessor's Office sent a letter (Exhibit J) to P & L's attorney in April 2013 indicating the applications were denied for untimely filing but would be held and processed for the 2014 assessment year. Van Deets sent the applications back to the Commission

for signature and approval of the wetlands exemptions for 2014. The applications were approved and Van Deets applied the exemptions in 2014 and adjusted the assessed value to \$0.

Tammy Berenguel, Support Supervisor at the Assessor's Office, testified the parcels were valued as agricultural land using the Corn Suitability Rating (CSR) method. She explained the flood plain easements on all the parcels lowered the CSR values by 50% to 90% because they are adjacent to the Des Moines River and subject to flooding. (Exhibits A-F). P & L does not dispute the valuation.

### ***Conclusions of Law***

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct. § 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

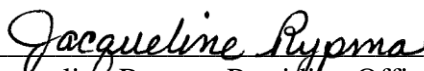
P & L Farms' request for exemption is based on Iowa Code section 427.1(22): "The following classes of property shall not be taxed: 22. *Natural conservation or wildlife areas.* Recreational lakes, forest covers, rivers and streams, river and stream banks, and open prairies as designated by the board of supervisors of the county in which located." Tax exemption statutes are strictly construed against the taxpayer and any doubt must be resolved in favor of taxation. *Carroll Area Child Care Center*,

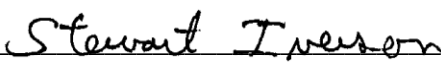
*Inc. v. Carroll County Bd. of Review*, 613 N.W.2d 252, 254 (Iowa 2000). The burden is upon taxpayer to prove the property comes within the statutory exemption. *Id.*

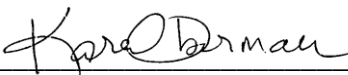
In order to be eligible for an exemption under section 427.1(22), an application must be filed no later than February 1 of the assessment year for which the exemption is requested. § 427.1(22)(a). The application must be filed with the commissioners of the soil and water conservation district in which the property is located. *Id.* P & L requests this Board ignore, or waive, the statutory February 1 application deadline based on equity because the late filing was inadvertent. The approval for a section 427.1(22) exemption is conditioned on the commission's receipt of a timely application. P & L admittedly did not file its application by February 1. Section 427.1(22) does not provide for extensions of the deadline. Neither this Board, nor the Board of Review, has authority to waive a statutorily mandated filing deadline; and therefore, we must deny P & L's appeals.

The Appeal Board orders the assessments of the subject properties as determined by the Polk County Board of Review, as of January 1, 2013, are affirmed.

Dated this 16th day of May 2014.

  
Jacqueline Rypma, Presiding Officer

  
Stewart Iverson, Board Chair

  
Karen Oberman, Board Member

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